IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

IN RE: GUTTA, Srinivas	)	
	)	APPEAL NO. _____
SERIAL NO: 10/596,165	)	
	)	
FOR: COLLABORATIVE SAMPLING FOR IMPLICIT RECOMMENDERS	)	
	)	REPLY BRIEF
FILED: June 2, 2006	)	
	)	
GROUP ART UNIT: 2169	)	
	)	
ATTORNEY DOCKET NO: P08655US01	)	
CONF NO.: 3089		

To the Commissioner of Patents and Trademarks
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Dear Sirs:

Please enter the following Reply Brief into the record.

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Edmund J. Sease

The Examiner's brief, with all due respect, pulls and twists terms of Schaffer out of their intended context, all in an effort to try to make Schaffer into something that it is not. Whereas the invention relates to a viewer's television program recommender, i.e. a personal home based system, Schaffer describes an audience predictor associated with a central server of a service provider (see Schaffer, paragraph 25), i.e. a remote broadcaster.

The Examiner, in point 1, argues unpersuasively the definition of "viewer" and argues that the term "a viewer's recommendation system is not recited in the claim language." But the claim does recite "viewer" and the claim does recite "the viewer's television program recommender" (claim 1). The reference point then is clearly different from Schaffer, and is distinguished from Schaffer, who therefore cannot, as a matter of law, anticipate.

With all due respect, it is clearly wrong to state that the invention does not relate to such a feature as a viewer's home recommender, as the claims refer to the synonymous features of viewer's recommender and viewer's television program recommender.

In the Examiner's point 2 at page 9 of his answer, the Examiner has neither shown a *prima facie* case of anticipation, nor shown that Schaffer teaches each and every element of the claims urged for anticipation. This alone dictates for reversal for lack of a *prima facie* case.

The Examiner says he disagrees with Applicant's conclusion that Schaffer, which is commonly owned, has nothing to do with the claimed invention device. But, claim 1 has as an essential feature: "determining a recommendation for at least one television program to be watched in the future by the viewer" i.e. the invention allows recommendation information to be targeted back to the viewer as it is directly obtained by the viewer's recommender. In

contrast. Schaffer (paragraph 29) teaches that profile data is collected by a central server (paragraph 25) to predict a level of interest in a program. While it appears that program recommendation scores can be generated from these profiles, this does not occur at the viewer's location or using the viewer's recommender, and therefore the recommendation is not targeted to the viewer in question or indeed any other individual user, as per the invention claim requirements.

With regard to the Examiner's argument that Applicant's explanation of difference is not a limitation recited in the claim language, at best the Examiner is being obtuse in not recognising the meaning or explanatory remarks in connection with a feature which does in fact form part of claim 1, as explained in point 1 discussion (supra).

Paragraphs 31-32 of Schaffer refer to a second embodiment in which program recommendations are generated by a recommender such as a Tivo™ system, and these recommendations can then be received by an audience predictor on a central server (paragraph 30). However, as the data is analysed by the central server the program recommendation are not determined at the viewer's location or by the viewer's recommender, and disadvantageously are therefore not targeted to the viewer, missing a key advantage of the invention.

Again the Examiner refers to the argument of something not a claim limitation, but the phrase in question is an explanatory remark to try and assist the Examiner in understanding the advantage of the invention over the art; and advantages are entitled to consideration. The Examiner cannot simply declare he disagrees, and then argue as though

his case is made. He should be reversed, for the features he attributes to Schaffer are not present.

Conclusion

It is almost incomprehensible that either the Examiner or his conferees would have agreed to the positions urged in this briefing. It has cost the client unnecessary expense.

In conclusion, reconsideration, reversal and allowance is urged.

No fees or extensions of time are believed to be due in connection with this brief; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,

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